

# UNITED STATES DISTRICT COURT

## EASTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA

v.

### JUDGMENT IN A CRIMINAL CASE

Case Number: 10-CR-246

USM Number: 45498-048

Nicholas M. Wooldridge

Defendant's Attorney

Erica N. O'Neil

Assistant United States Attorney

#### THE DEFENDANT:

pled guilty on June 15, 2012, to an Information.

pleaded nolo contendere to count(s) \_\_\_\_\_ which was accepted by the court.

was found guilty on count(s) \_\_\_\_\_ after a plea of not guilty.

The defendant is adjudicated guilty of the following offense:

<u>Title &amp; Section</u>	<u>Nature of Offense</u>	<u>Offense Ended</u>	<u>Count</u>
<u>18 U.S.C. §§ 1030(a)(5)(A), (c)(4)(A), (c)(4)(B), and 2</u>	<u>Sending Electronic Mail Messages Causing Damage to a Protected Computer</u>	<u>November 4, 2010</u>	<u>One</u>

The defendant is sentenced as provided in Pages 2 through 6 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

The defendant has been found not guilty on count(s) \_\_\_\_\_.

The government's oral motion for leave to dismiss count the Indictment and Superseding Indictment is granted.

It is ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessment imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and the United States attorney of material changes in economic circumstances.

February 27, 2013

Date of Imposition of Judgment

/s/ C. N. Clevert, Jr.

Signature of Judicial Officer

C. N. Clevert, Jr., U.S. District Judge

Name & Title of Judicial Officer

February 27, 2013

Date

**Defendant: Oleg Yegorovich Nikolaenko**  
**Case Number: 10-CR-246**

### **IMPRISONMENT**

The defendant is hereby committed to the custody of the United States Bureau of Prisons for a term of **time served as to the Information**.

- The court makes the following recommendations to the Bureau of Prisons:
  
- The defendant is remanded to the custody of the United States Marshal.
  
- The defendant shall surrender to the United States Marshal for this district.
  - at \_\_\_\_\_  a.m.  p.m. on \_\_\_\_\_.
  - as notified by the United States Marshal or Pretrial Services.
  
- The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons,
  - before 2 p.m. on \_\_\_\_\_.
  - as notified by the United States Marshal.
  - as notified by the Probation or Pretrial Services Office.

### **RETURN**

I have executed this judgment as follows:

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Defendant delivered on \_\_\_\_\_ to \_\_\_\_\_  
a \_\_\_\_\_, with a certified copy of this judgment.

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UNITED STATES MARSHAL

By \_\_\_\_\_  
DEPUTY UNITED STATES MARSHAL

**Defendant: Oleg Yegorovich Nikolaenko**  
**Case Number: 10-CR-246**

**SUPERVISED RELEASE**

Upon release from imprisonment, the defendant is placed on administrative supervision for a term of **three (3) years**.

The defendant must report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

The defendant shall not commit another federal, state or local crime.

The defendant shall not unlawfully possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.

- The above drug testing condition is suspended based on the court's determination that the defendant poses a low risk of future substance abuse. (Check, if applicable.)
- The defendant shall not possess a firearm, ammunition, explosives, any destructive device, or any other dangerous weapon. (Check, if applicable.)
- The defendant shall cooperate in the collection of DNA as directed by the probation officer. (Check, if applicable.)
- The defendant shall register with the state sex offender registration agency in the state where the defendant resides, works, or is a student, as directed by the probation officer. (Check, if applicable.)
- The defendant shall participate in an approved program for domestic violence. (Check, if applicable.)

If this judgment imposes a fine or a restitution, it is a condition of supervised release that the defendant pay in accordance with the Schedule of Payments sheet of this judgment.

The defendant must comply with the standard conditions set forth below that have been adopted by this court as well as with any additional conditions on the attached page.

**STANDARD CONDITIONS OF SUPERVISION**

- 1) the defendant shall not leave the judicial district without permission of the court or probation officer;
- 2) the defendant shall report to the probation officer in a manner and frequency directed by the court or probation officer;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer at least ten days prior to any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity, and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view by the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer regarding any law he may have violated.

**Defendant: Oleg Yegorovich Nikolaenko**  
**Case No. 10-CR-246**

**ADDITIONAL TERMS OF SUPERVISED RELEASE**

1. Within 72 hours of release from custody of the Bureau of Prisons, the defendant shall report in person to the probation office in the district to which he is released.
2. The defendant shall not possess any firearms, ammunition, or other dangerous weapons, as such possession will result in revocation of the supervision term.
3. Pursuant to the Violent Crime Control and Law Enforcement Act of 1994, the defendant shall not illegally possess any controlled substances. Such possession will result in revocation of the supervision term. The defendant shall refrain from any unlawful use of a controlled substance.
4. The defendant shall cooperate with Immigration and Customs Enforcement Services at the direction of the supervising probation officer.

**Defendant: Oleg Yegorovich Nikolaenko**  
**Case Number: 10-CR-246**

### **CRIMINAL MONETARY PENALTIES**

The defendant must pay the total criminal monetary penalties under the schedule of payments on Sheet 6.

<b><u>Totals:</u></b>	<b><u>Assessment</u></b>	<b><u>Fine</u></b>	<b><u>Restitution/Buy Money</u></b>
	<b>\$100.00</b>	None	None /None

- The defendant shall repay the buy money while on supervised release.
- The determination of restitution is deferred until \_\_\_\_\_ . An *Amended Judgment in a Criminal Case* (AO 245C) will be entered after such determination.
- The defendant must make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all non-federal victims must be paid before the United States is paid.

<b><u>Name of Payee</u></b>	<b><u>Total Loss*</u></b>	<b><u>Restitution Ordered</u></b>	<b><u>Priority or Percentage</u></b>
<b>Totals:</b>	\$ _____	\$ _____	

- Restitution amount ordered pursuant to plea agreement \$ \_\_\_\_\_
- The defendant must pay interest on restitution and a fine of more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 6 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).
- The court determined that the defendant does not have the ability to pay interest, and it is ordered that:
  - the interest requirement is waived for the  fine  restitution/buy money.
  - the interest requirement for the  fine  restitution is modified as follows:

\*Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

**Defendant: Oleg Yegorovich Nikolaenko**  
**Case Number: 10-CR-246**

## SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties shall be due as follows:

**A**  **Lump sum payment of \$100.00 for the Special Assessment is due immediately.** If the defendant cannot make full and immediate payment, then the balance is to be paid

not later than \_\_\_\_\_, or

in accordance  C,  D,  E or  F below; or

**B**  Payment to begin immediately (may be combined with  C,  D, or  F below); or

**C**  Payment in equal \_\_\_\_\_ (e.g., weekly, monthly) installments of \$ \_\_\_\_\_ over a period of \_\_\_\_\_ (e.g., months or years), to commence \_\_\_\_\_ (e.g., 30 or 60 days) after the date of this judgment; or

**D**  Payment in equal \_\_\_\_\_ (e.g., weekly, monthly) installments of \$ \_\_\_\_\_ over a period of \_\_\_\_\_ (e.g., months or years), to commence \_\_\_\_\_ (e.g., 30 or 60 days) after release from imprisonment to a term of supervision; or

**E**  Payment during the term of supervised release will commence within \_\_\_\_\_ (e.g., 30 or 60 days) after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or

**F**  Special instructions regarding the payment of criminal monetary penalties:

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program are made to the clerk of the court.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

Restitution is joint and several.

The defendant shall pay the cost of prosecution.

The defendant shall pay the following court cost(s):

The defendant shall forfeit any right, title and interest in the following property to the United States:

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) fine interest, (6) community restitution, (7) penalties, and (8) costs, including cost of prosecution and court costs.